

MAR 28 2007

Appln. No. 10/646,162
Amendment dated March 28, 2007
Reply to Office Action mailed September 7, 2006

REMARKS

Reconsideration is respectfully requested.

Claims 1 through 17 have been cancelled, and claim 18 is pending. No claims have been withdrawn or added.

Paragraphs 1 and 2 of the Office Action

Claims 7 and 8 have been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Fantom Orb Disk Drive.

It is conceded in the rejection of claim 5 (now incorporated into claim 6) in the Office Action that "Fantom does not specifically disclose the claimed activity indicator including a single color LED", but then it is contended that (emphasis added):

[H]owever it would have been obvious to one of ordinary skill in the art that a single color LED would be able to accomplish the same indication by providing a steady indication when no disk access was occurring (representing the steady green light as disclosed by Fantom) and also able to provide the flashing indication when disk accesses were occurring (representing the flashing amber light as disclosed by Fantom) and using a single color LED would lower costs.

However, it is submitted that the Fantom would not suggest to one of ordinary skill in the art that (1) a single color LED would be able to provide the same function, or that (2) a single color LED would "lower costs".

With respect to the first assertion of the rejection, it is noted that the Fantom device employs at least three LEDs (one for each color—no matter how they may be grouped about the same opening in the case) for indicating a plurality of operating conditions for the drive, and to indicate these multiple operating conditions, it is apparent to one of ordinary skill in the art that a single LED (much less a single color LED) would not be a suitable modification of the Fantom drive to represent these multiple operating conditions. One could speculate as to which operating conditions might and

Appln. No. 10/646,162
Amendment dated March 28, 2007
Reply to Office Action mailed September 7, 2006

might not be necessary for use on the Fantom drive, but that is mere speculation, and one of ordinary skill in the art is not motivated to impair the functionality of the drive or the indicating system for some reason not stated in the art.

In the presently pending Office Action, it is newly contended that:

Also at any point in time, the disclosed indicator of Fantom is always indicating only a single color, whether it be green, amber or red and would therefore be providing single-color indication and would therefore be considered a single-color LED by one of ordinary skill in the art.

Initially, it is noted that nothing in the claim requires "a single-color indication", so the significance of the statement regarding that is minimal. Secondly, it is submitted that no one skilled in the art would consider a system (such as described in the Fantom document) that uses green to indicate one operating condition and amber to indicate another condition to be "a single color LED", as required by the claim. A "single color LED" does not have two colors, even if both colors are not displayed at the same time (and it is note that the Fantom document does not establish that the colors are displayed in a serial manner).

With respect to the second assertion of the rejection—that one of ordinary skill in the art would be motivated to make the allegedly obvious modification of the Fantom drive to "lower costs"—it is submitted that there is no suggestion in that Fantom device to do so, especially (as noted above) when the modification proposed in the rejection would reduce the functionality. While a less expensive cost is one of the benefits of the claimed invention, the claimed invention can perform the claimed functions without impairment of the indication of the operating conditions of the system and hard disk drive. This is in contrast to the proposal in the rejection that one of ordinary skill in the art would find it obvious to diminish the indicating functionality of the Fantom device simply to "lower

Appln. No. 10/646,162
Amendment dated March 28, 2007
Reply to Office Action mailed September 7, 2006

costs". Again, while one may speculate that that might occur, it cannot be assumed that one of ordinary skill in the art would find such degradation of function to be "obvious".

It is further stated in the rejection that:

Therefore it would have been obvious to one of ordinary skill in the art to use a single color LED. Also at any point in time, the disclosed indicator of Fantom is always indicating only a single color, whether it be green, amber or red and would therefore be providing single-color indication and would therefore be considered a single-color LED by one of ordinary skill in the art.

Simply because one may be able to isolate the indications of different operating conditions of the Fantom drive from each other does not lead one of ordinary skill in the art to remove the structure (other color LEDs) that provides the capability to indicate other operating conditions. (Also, nothing in the Fantom document suggests that the different LED colors are not being simultaneously displayed to indicate two conditions.) Again, the modification proposed in the rejection removes indication functionality from the Fantom drive, and there is no motivation for one of ordinary skill in the art to reduce the function of the Fantom drive by employing "a single color LED" as an indicator. The last statement in this portion appears simply to speculate about a dissection of the function of the Fantom drive by one of ordinary skill in the art without providing any explanation of why one would engage in such a dissection by isolating one indicating function from another indicating function.

Lastly, in the Response to Arguments section of the Office Action, it is stated that:

Regarding argument B, neither the Bush reference nor the Fantom reference disclose using more than one led to provide the status information as claimed. Bush uses one LED as disclosed in column 3, lines 42-68 and column 4, lines 1-6. Fantom uses one LED as shown in the Front Panel illustration.

Appln. No. 10/646,162
Amendment dated March 28, 2007
Reply to Office Action mailed September 7, 2006

However, simply because the Fantom drive has a single opening in the face for the indicator does not lead one of ordinary skill in the art to believe that the Fantom drive only has one LED, particularly when one of ordinary skill in the art recognizes that the indicator clearly displays three different colors (possibly two at the same time), and thus requires three different LEDs or at least an LED that displays three colors, and not a single color LED.

It is further noted that claim 18 requires "wherein the first continuous operating condition consists of a power-on operating condition of the computer system". However, the diagram of the Fantom apparatus shows a separate and discrete "power light" on the front panel of the Fantom device, and therefore it is submitted that one of ordinary skill in the art would not recognize that the Fantom discloses the claimed invention, as the power indication is provided by a completely different indicator than the "Disk in use" indicator.

It is therefore submitted that the Fantom Orb Disk Drive document would not lead one of ordinary skill in the art to the applicant's claimed invention as defined in claim 18, especially with the requirements set forth above, and therefore it is submitted that claim 6 is allowable over the prior art.

MAR 28 2007


Appln. No. 10/646,162
Amendment dated March 28, 2007
Reply to Office Action mailed September 7, 2006

CONCLUSION

In light of the foregoing amendments and remarks, early reconsideration and allowance of this application are most courteously solicited.

Respectfully submitted,

GATEWAY, INC.

By 
Jeffrey A. Proehl (Reg. No. 35,987)
Customer No. 24,333
Gateway, Inc.
610 Gateway Dr., Y-04
N. Sioux City, SD 57049
Telephone (605) 232-1967
Fax (605) 232-2612

Date: MARCH 28, 2007